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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,398	09/30/2003	Marc S. Weinberg	DR-312J	6483
7590 08/10/2005				
Iandiorio & Teska 260 Bear Hill Road Waltham, MA 02451-1018		EXAMINER BUDD, MARK OSBORNE		
		ART UNIT PAPER NUMBER		
		2834		
DATE MAILED: 08/10/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/675,398

Applicant(s)

WEINBERG ET AL.

Examiner

Mark Budd

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) 57-60 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 50-54 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-43,55 and 56 is/are rejected.
- 7) ☒ Claim(s) 3 and 44-49 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Claims 1, 4 -- 7, 9, 15, 17, 35, 36, 38, 40, 42, 55 and 56 are rejected under 35 USC 102 (b) as being anticipated by a Takeuchi (182) or Bernstein (580) for the specific reasons set forth in the previous office action (4 -- 21 -- 05).

Claims 1, 2, four -- 9, 15 -- 18, 35 -- 43, 55 and 56 are rejected under 35 USC 103 (a) as being unpatentable over the prior art in view of Takeuchi (182) or Bernstein (580) for the specific reasons noted in the previous office action (4 -- 21 -- 05).

Claims 10 -- 14 and 19 -- 34 are rejected under 35 USC 103 (a) as being unpatentable over Takeuchi (182) or Bernstein (580) for the reasons described in the previous office action (4 -- 21 -- 05).

In regard to the 35 USC 102 rejections it is felt that electrode locations would inherently coincide with at least some eigenmodes sends flecked role vibrations are being produced in both plates. This assumption is also backed up by a reading of the admitted prior art described in applicant's specification. Applicant states that when the comb pattern is aligned with all the eigenmodes of the flectural plate the result is a single eigenmode which results in a pronounced single peak. It is noted however, that the claims are not limited to the comb pattern being aligned with **all** eigenmodes.

Assuming, arguendo, that the electrodes of the references would not inherently coincide with eigenmodes, it would have been obvious to one of ordinary skill in the art to make

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such placements for increased efficiency as is well known in the art; again, as illustrated by the prior art described in applicant's specification.

Applicant has argued the Bernstein does not teach a comb pattern in electrode. Please note figures 3 and 4, is specially electrode fingers 48 and 52 which demonstrate a comb pattern over the entire extent of the flexural portion of the plate.

Applicant argues that Takeuchi shows only spiral electrode patterns. Please note figure 19 and column 19 lines 37 -- 53 which clearly describe a comb pattern.

Claims 3 and 44 -- 49 remain objected to, while claims 50 -- 54 remain allowable. This action is a **final rejection** and is intended to close the prosecution of this application. Applicant's reply under 37 CFR 1.113 to this action is limited either to an appeal to the Board of Patent Appeals and Interferences or to an amendment complying with the requirements set forth below.

If applicant should desire to appeal any rejection made by the examiner, a Notice of Appeal must be filed within the period for reply identifying the rejected claim or claims appealed. The Notice of Appeal must be accompanied by the required appeal fee.

If applicant should desire to file an amendment, entry of a proposed amendment after final rejection cannot be made as a matter of right unless it merely cancels claims or complies with a formal requirement made earlier. Amendments touching the merits of the application which otherwise might not be proper may be admitted upon a showing

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a good and sufficient reasons why they are necessary and why they were not presented earlier.

A reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance. Accordingly, if a Notice of Appeal has not been filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), the application will become abandoned


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Budd whose telephone number is 571 -- 272 -- 2019. The examiner can normally be reached on Monday through Thursday from 6 a.m. to 4 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg, can be reached on 571 -- 272 -- 2044. The fax phone number for the organization where this application or proceeding is assigned is 571 3 -- 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Mark Budd
Primary Examiner
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